IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1906 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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UNITED INDIA INSURANCE CO.LTD.

Versus

MANJUBEN WD/O MANUBHAI SUKHABHAI

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Appearance:

1. First Appeal No. 1906 of 1982
MR PV NANAVATI for Petitioner No. 1-3
NOTICE NOT RECD BACK for Respondent No. 1-5
UNSERVED-EXPIRED (N) for Respondent No. 6-7

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CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE K.A.PUJ

Date of decision: 02/05/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.H.KADRI)

1. United India Insurance Company Limited, as well as the driver and the owner of the offending Truck No.

GTC 2694, by filing this appeal under Section 110-D of the Motor Vehicles Act, 1939, have challenged the judgment and award dated December 29, 1981 passed by the Motor Accidents Claims Tribunal, Surat, in M.A.C. Petition No.381 of 1980.

2. The learned advocate for the appellants has taken us through the entire evidence and the record and proceedings of the appeal.

3. It has been contended by the learned advocate for the appellants that the deceased was riding a motor-cycle and he was also negligent in causing the accident, and the Tribunal has erred in not holding the deceased for contributory negligence in causing the accident. Having gone through the entire oral as well as the documentary evidence, we are satisfied that the Tribunal had rightly come to the conclusion that the driver of the Truck No. GTC 2694 was solely responsible and negligent in causing the accident. Therefore, we confirm the finding of the Tribunal with regard to the negligence of the truck driver.

4. With regard to quantum of compensation, we are of the view that the Tribunal had awarded a just compensation to the dependents of the deceased. The learned advocate for the appellants had not been able to make out any ground to show that the compensation awarded to the claimants is on the higher side.

5. As a result of foregoing reasons, we do not find any substance in the appeal and the appeal is dismissed with no order as to costs.

May 2, 2002 (M.H. Kadri, J.)

(K.A.Puj, J.)

(swamy)